

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL ANTHONY WILLIAMS,

Plaintiff,

File No. 1:08-CV-470

v.

HON. ROBERT HOLMES BELL

CINDI S. CURTIN, et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION AND DISMISSING COMPLAINT**

On June 3, 2008, United States Magistrate Judge Joseph G. Scoville issued a Report and Recommendation ("R&R") recommending that Plaintiff Michael Anthony Williams' 42 U.S.C. § 1983 prisoner civil rights complaint be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A(b), and 42 U.S.C. § 1997e(c) for failure to state a claim. (Dkt. No. 4.) Plaintiff filed objections to the R&R on June 16, 2008. (Dkt. No. 6.) Plaintiff also filed a motion for access to his legal materials. (Dkt. No. 5.)

This Court is required to make a *de novo* determination of those portions of the R&R to which objection has been made, and may accept, reject, or modify any or all of the Magistrate Judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

In his objections Plaintiff has provided additional factual allegations that were not contained in his complaint. A plaintiff in a case covered by the Prison Litigation Reform Act

may not amend his complaint to avoid a *sua sponte* dismissal. *Baxter v. Rose*, 305 F.3d 486, 489 (6th Cir. 2002) (citing *McGore v. Wigglesworth*, 114 F.3d 601, 612 (6th Cir. 1997)). Having conducted the required review of the R&R and Plaintiff's objections thereto, the Court concurs with the conclusions of the Magistrate Judge as stated in the R&R. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's objections to the Report and Recommendation of the Magistrate Judge (Dkt. No. 6) are **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation of the Magistrate Judge is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's complaint is **DISMISSED** for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A, and 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that this dismissal shall count as a **STRIKE** for purposes of 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that the Court finds no good-faith basis for appeal within the meaning of 28 U.S.C. § 1915(a)(3).

IT IS FURTHER ORDERED that Plaintiff's request for an order directing the Michigan Department of Corrections to provide him access to legal materials necessary for the litigation of this action (Dkt. No. 5) is **DENIED AS MOOT**.

Dated: March 3, 2009

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE